

Securities and Exchange Commission

§ 204.3

204.76 Use of credit bureau or consumer reporting agencies.

204.77 Referrals to collection agencies.

Subpart A—Administrative Offset

AUTHORITY: 31 U.S.C. 3716, 31 CFR 901.3.

SOURCE: 58 FR 64370, Dec. 7, 1993, unless otherwise noted.

§ 204.1 Applicability and scope.

(a) The procedures authorized for administrative offset are contained in Section 10 of the Debt Collection Act (codified at 31 U.S.C. 3716). The Act requires that notice procedures be observed by the agency. The debtor is also afforded an opportunity to inspect and copy government records pertaining to the claim, enter into an agreement for repayment, and to a review of the claim (if requested). Like salary offset, agencies may cooperate with one another in order to effectuate recovery of the claim.

(b) The provisions of this subpart apply to the collection of debts owed to the United States arising from transactions with the Securities and Exchange Commission (Commission). These regulations are consistent with the Debt Collection Act and the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the Department of the Treasury (31 CFR 901.3).

[58 FR 64370, Dec. 7, 1993, as amended at 66 FR 54130, Oct. 26, 2001]

§ 204.2 Definitions.

(a) *Administrative offset* as defined in 31 U.S.C. 3701(a)(1) means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

(b) *Person* includes a natural person or persons, profit or nonprofit corporation, partnership, association, trust, estate, consortium, or other entity which is capable of owing a debt to the United States Government except that agencies of the United States, or of any

State or local government shall be excluded.

[58 FR 64370, Dec. 7, 1993, as amended at 66 FR 54130, Oct. 26, 2001]

§ 204.3 General.

(a) The Chairperson (or designee) may initiate administrative offset with regard to debts owed by a person to another agency of the United States Government, upon receipt of a request from the head of another agency or his or her designee, and a certification that the debt exists and that the person has been afforded the necessary due process rights.

(b) The Chairperson (or designee) may notify the Department of the Treasury of delinquent debts for purposes of administrative offset, and may request another agency which holds funds payable to a Commission debtor to offset that debt against the funds held; the Commission will provide certification that:

(1) The debt is past due and legally enforceable; and

(2) The person has been afforded the necessary due process rights.

(c) No collection by administrative offset shall be made on any debt that has been outstanding for more than 10 years unless facts material to the Government's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering the debt. This limitation does not apply to debts reduced to judgment.

(d) Administrative offset under this subpart may not be initiated against:

(1) A debt in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute;

(2) Debts owed by other agencies of the United States or by any State or local Government; or

(3) Debts arising under the Internal Revenue Code of 1954; the Social Security Act; or the tariff laws of the United States.

(e) The procedures for administrative offset in this subpart do not apply to the offset of Federal salaries under 5 U.S.C. 5514 or Federal tax refunds under 31 U.S.C. 3720A and 31 CFR 285.2.

[58 FR 64370, Dec. 7, 1993, as amended at 66 FR 54130, Oct. 26, 2001]